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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,643	10/15/2003	David Morrow	WLI 1096 PUS	2642
27256	7590	03/07/2005	EXAMINER	
ARTZ & ARTZ, P.C. 28333 TELEGRAPH RD. SUITE 250 SOUTHFIELD, MI 48034			CHAMBERS, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/605,643	Applicant(s) MORROW ET AL.	
	Examiner Mike Chambers	Art Unit 3711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 11, 13-17 and 21-34 is/are pending in the application.  
     4a) Of the above claim(s) 11 and 13-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 21-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1- 7, 21-24, 26-34 are drawn to a lacrosse handles with reinforcing inserts, classified in class 473, subclass 513.
- II Claims 11, 13-17 and 25 are drawn to a lacrosse handles with bladder membranes, classified in class 473, subclass 513.

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions one type of insert would not be used with another type of insert.

Applicant's representative J. Artz was contacted by phone on 2/24/2005.

Applicant's representative elected Group I.

Claims 11, 13-17 and 25 are withdrawn from further consideration.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 22 recites the limitation "reinforcing insert has

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a variable thickness " in line 1. Claim 1 calls for a uniform inner cavity. It is unclear how the insert can have a uniform inner cavity and variable thickness

Claims 23-24 inherit the deficiencies of claim 22.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Rahman (6361317). Rahman discloses a hollow tube (34a) having an insert (3:10-12) with a uniform inner cavity (3:10-12, fig 4). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claim 2: Rahman discloses a reinforcing insert that extends across the length of the hollow tube (fig 1, 4).

As to claim 3: Rahman discloses a insert that extends around an inner circumference (fig 1,4).

As to claims 4-6: Rahman discloses a reinforcing insert that is coupled to the top, intermediate and end portion (fig 1,4).

Also,

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Claims 1- 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Graff (3234309). Graff discloses a hollow tube having an insert with a uniform inner cavity (fig 7, 2:16-30,5:66-75). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2111-2112).

As to claim 2: Graff discloses a reinforcing insert that extends across the length of the hollow tube (fig 1, 7).

As to claim 3: Graff discloses a insert that extends around an inner circumference (fig 7).

As to claims 4-6: Graff discloses a reinforcing insert that is coupled to the top, intermediate and end portion (fig 7).

As to claim 7: Graff discloses a fiberglass reinforcing insert (2:21-28).

Also,

Claims 1-6, 26-30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Mick (3071162). Mick discloses a hollow metal tube having a non-metal insert that is lightweight (fig 1). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2111-2112).

As to claim 2: Mick discloses a reinforcing insert that extends across the length of the hollow tube (fig 1).

As to claim 3: Mick discloses a insert that extends around an inner circumference (fig 1).

As to claims 4-6: Mick discloses a reinforcing insert that is coupled to the top, intermediate and end portion (fig 1).

As to claim 26 : See claim 1 rejection.

As to claim 27 : Mick discloses an inner cavity (fig 1).

As to claim 28 : Mick discloses an insert that extends the length of the metal tube (fig 1).

As to claims 29-30: Mick discloses a reinforcing insert that is coupled at the first and second end (fig 1).

As to claim 32 : Mick discloses a uniform thickness (fig 1).

Also,

Claims 1-6, 22, 26-30 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Loyd et al (4348247). Loyd discloses a hollow metal tube having a non-metal insert that is lightweight (fig 2). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2111-2112).

As to claim 2: Loyd et al discloses a reinforcing insert that extends across the length of the hollow tube (fig 1).

As to claim 3: Loyd et al discloses a insert that extends around an inner circumference (fig 1).

As to claims 4-6: Loyd et al discloses a reinforcing insert that is coupled to the top, intermediate and end portion (fig 1).

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As to claim 22 : Loyd discloses a variable thickness (fig 2).

As to claim 26 : See claim 1 rejection.

As to claim 27 : Loyd discloses an inner cavity (fig 2).

As to claim 28 : Loyd discloses an insert that extends the length of the metal tube (fig 2).

As to claims 29-30: Loyd discloses a reinforcing insert that is coupled to the first and second end (fig 2).

As to claim 33 : Loyd discloses a variable thickness (fig 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loyd as applied to claim 26 above. The type of reinforcing material is a matter of design choice. The specification provides no unexpected results in using a foam or fiberglass (paragraph 10 of specification). It would have been obvious to one of ordinary skill in the art to have selected an appropriate material for reinforcement based on cost and manufacturing methods.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loyd as applied to claim 26 above. The thickness of the insert is a matter of design choice. The



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specification provides no unexpected results in using a thickness larger on one half of the handle than the other half. Various types of manufacturing methods would cause this type of limitation. It would have been obvious to one of ordinary skill in the art to have selected an appropriate thickness based on cost and manufacturing methods.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable Loyd (4348247) as applied to claim 1 and further in view of Official Notice. Official Notice is taken that the use of fiberglass is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed any one of several equivalent materials including fiberglass based on cost and manufacturing and design considerations.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loyd (4348247) as applied to claim 1 and further in view of Official Notice. The specification provides no unanticipated results from this limitation. Official Notice is taken that the use of multiple reinforcing inserts is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed multiple sections of reinforcing inserts based on cost and manufacturing and design considerations.

Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

*GV*  
*3/1/05*  
~~Hout (3702702) in view of~~ Loyd (4348247) as applied to claim 1 and further in view of Official Notice. The specification provides no unanticipated results from this limitation. Official Notice is taken that the use of a variable thickness reinforcing insert at the



top/bottom portion of said tube is a design choice. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed multiple sections of reinforcing inserts based on cost and manufacturing and design considerations.

***Response to Arguments***

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

  
GREGORY VIDOVIK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700